IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11103 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 11103 of 2003

MR MANISH A PANDYA for Petitioner No. 1

MR SIRAJ GORI A.G.P. for Respondent No. 1-4

CORAM : HON'BLE MR.JUSTICE A.R.DAVE

Date of decision: 16/09/2003

ORAL JUDGEMENT

Rule. Mr.Siraj Gori learned A.G.P. waives service of rule on behalf of the respondent - authorities.

2. The case of the petitioner is that his vehicle has been illegally detained because of non-payment of the Motor Vehicle Tax to the State of Gujarat.

3. Learned A.G.P. Mr.Gori has appeared in pursuance of notice issued by this Court and has submitted that the petitioner has already filed an appeal before the appellate authority against the seizure order, validity of which has been challenged before this Court. In view of the fact that the petitioner has already filed an appeal before the appellate authority, in my opinion, this petition should not survive. The grievance of learned advocate Shri Pandya appearing for the petitioner is that the appeal might not be heard for a considerably long period and in that event his vehicle would be detained by the authorities and the petitioner would not be in a position to use his vehicle.

4. In view of the above referred circumstances, it is directed that the appellate authority shall decide the appeal as soon as possible and preferably within a period of six weeks from the date of the receipt of this order. According to learned advocate Shri Pandya, he has to pay only a sum of Rs.5,000=00, but a sum of Rs.98,000=00 is being demanded by way of tax by the respondent authorities. It would be open to the petitioner to pay the amount of tax which according to him should be paid and it would also be open to him to submit an application with a prayer for release of the vehicle. I am sure, if such an application if filed, the appellate authority shall decide the same in accordance with law and preferably within a period of a fortnight from the production of this order.

In view of the above observation, learned advocate Shri Pandya seeks permission to withdraw this petition. Permission is granted. The petition stands disposed of as withdrawn. Rule is discharged with no order as to costs.

Direct Service is permitted.

[A.R. DAVE, J.]

/phalguni/